

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - -X
UNITED STATES OF AMERICA, : 21-CR-265(PKC)
:
:
-against- : United States Courthouse
:
:
MICHAEL MCMAHON, et al. : Tuesday, June 20, 2023
:
9:00 a.m.
Defendants. :
:
- - - - -X

TRANSCRIPT OF CRIMINAL CAUSE FOR JURY TRIAL
BEFORE THE HONORABLE PAMELA K. CHEN
UNITED STATES DISTRICT JUDGE, AND A JURY.

A P P E A R A N C E S:

For the Government: UNITED STATES ATTORNEY'S OFFICE
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
BY: CRAIG HEEREN, ESQ.
MEREDITH A. ARFA, ESQ.
IRISA CHEN, ESQ.
CHRISTINE ANN BONOMO, ESQ.
Assistant United States Attorneys

For the Defendant: GIBBONS P.C.
Attorneys for the Defendant -
Michael McMahon,
One Gateway Center
Newark, New Jersey 07102
BY: LAWRENCE S. LUSTBERG, ESQ.
GENNA AUTUMN CONTI, ESQ.

A P P E A R A N C E S: (Continued.)

For the Defendant: KEVIN KERVENG TUNG, P.C.
Attorney for the Defendant -
Yong Zhu
Queens Crossing Business Center
136-20 38th Avenue
Suite 3D
Flushing, New York 11354
BY: KEVIN K. TUNG, ESQ.

For the Defendant: GOLDBERGER & DUBIN, P.C.
Attorneys for the Defendant -
Conying Zheng
401 Broadway
Suite 306
New York, New York 10013
BY: PAUL A. GOLDBERGER, ESQ.
RENEE MELINDA WONG, ESQ.

Court Reporter: Anthony D. Frisolone, FAPR, RDR, CRR, CRI
Official Court Reporter
Telephone: (718) 613-2487
Facsimile: (718) 613-2694
E-mail: Anthony_Frisolone@nyed.uscourts.gov

Proceedings recorded by computerized stenography.
Transcript produced by Computer-aided Transcription.

Proceedings

3

1 (In open court.)

2 (Court's Exhibit 7 was marked.)

3 THE COURT: Have a seat, everyone.

4 Good morning, everyone, I hope you had a good
5 weekend perhaps more restful than ones in recent past. You
6 have heard that we received a note from the jury. It has
7 been marked as Court Exhibit No. 7 and simply says, "The
8 jury has reached a verdict."

9 So my law clerk, who is filling in today for
10 Ms. Gonzalez is paring up the alternates first who we will
11 bring into the courtroom and then we will get the regular
12 jury to announce the verdict, all right in.

13 MR. LUSTBERG: Thank you, your Honor.

14 (A brief pause in the proceedings was held.)

15 THE COURT: All rise.

16 (Alternate jurors enter courtroom at 11:38 a.m.)

17 THE COURT: Please be seated, everyone.

18 So good morning, ladies and gentlemen of the jury,
19 the alternate jury.

20 Again, I have to thank you for your willingness to
21 continue to serve and your patience throughout this process
22 since, obviously, you weren't allowed to deliberate over the
23 verdict but you were very patient, willing, and had a great
24 attitude about remaining here in case we needed to include
25 you or add you to the jury. So we thank you for your

Proceedings

4

1 service in advance.

2 As you probably heard from my law clerk, the jury
3 has announced that they've reached a verdict, so we wanted
4 to bring you in here so you could hear that verdict along
5 with everyone else. But, again, thank you for your
6 diligence, that's all I can say, and your patience
7 throughout this process. You've had a great attitude
8 throughout and we really do appreciate that. It is a great
9 testament to your belief in our system and your willingness
10 to serve when called upon to do so.

11 (A brief pause in the proceedings was held.)

12 COURTROOM DEPUTY: All rise.

13 (Jury enters courtroom at 11:42 a.m.)

14 THE COURT: Please be seated, everyone.

15 Mr. Foreperson, we received your last note which
16 indicates that the jury has reached a verdict; is that
17 correct.

18 THE FOREPERSON: That's correct.

19 THE COURT: Okay. If you'll hand the verdict
20 sheet to my law clerk. Thank you.

21 I'm going to hand this back to you, the
22 foreperson, and as I read the charges -- my apologies -- as
23 I read the verdict sheet, which I'm going to get a copy of
24 in a minute, I'll have you announce the verdict.

25 MR. HEEREN: Judge, we have a copy.

Proceedings

5

1 THE COURT: Why don't you hand me a copy. I
2 apologize. So here we go.

3 As to Count One: Conspiracy to act as an agent of
4 a foreign government without notification to the Attorney
5 General.

6 And, foreperson, do you mind standing in part so I
7 can see you.

8 As to defendant Michael McMahon, not guilty or
9 guilty?

10 THE FOREPERSON: Not guilty.

11 THE COURT: As to Zhen Conying, not guilty or
12 guilty?

13 THE FOREPERSON: Not guilty.

14 THE COURT: As to defendant Zhu Yong, not guilty
15 or guilty?

16 THE FOREPERSON: Guilty.

17 THE COURT: Turning to Count Two: Acting as an
18 agent of a foreign government without notification to the
19 Attorney General.

20 As to defendant Michael McMahon, not guilty or
21 guilty?

22 THE FOREPERSON: Guilty.

23 THE COURT: As to defendant Zheng Conying, not
24 guilty or guilty?

25 THE FOREPERSON: Not guilty.

Proceedings

6

1 THE COURT: As to defendant Zhu Yong, not guilty
2 or guilty?

3 THE FOREPERSON: Guilty.

4 THE COURT: Count Three: Conspiracy to engage in
5 interstate stalking.

6 As to defendant Michael McMahon, not guilty or
7 guilty?

8 THE FOREPERSON: Guilty.

9 THE COURT: As to defendant Zheng Conying, not
10 guilty or guilty?

11 THE FOREPERSON: Guilty.

12 THE COURT: As to defendant Zhu Yong, not guilty
13 or guilty?

14 THE FOREPERSON: Guilty.

15 THE COURT: Count Four: Interstate stalking.

16 As to defendant Michael McMahon, not guilty or
17 guilty?

18 THE FOREPERSON: Guilty.

19 THE COURT: As to defendant Zheng Conying, not
20 guilty or guilty?

21 THE FOREPERSON: Guilty.

22 THE COURT: And finally, as to defendant Zhu Yong.
23 Not guilty or guilty?

24 THE FOREPERSON: Guilty.

25 THE COURT: Thank you very much. You may have a

Proceedings

7

1 seat. We'll take the verdict sheet from you.

2 All right. Would the Government like the jury to
3 be polled?

4 MR. HEEREN: No, Your Honor.

5 THE COURT: Would the defendant, Mr. McMahon,
6 would you like jury to be polled.

7 Mr. Lustberg?

8 MR. LUSTBERG: Yes, Your Honor.

9 THE COURT: Juror No. 1, is that your verdict?

10 JUROR NO. 1: Yes.

11 THE COURT: Juror No. 2, is that your verdict?

12 JUROR NO. 2: Yes.

13 THE COURT: Juror No. 3, is that your verdict.

14 JUROR NO. 3: Yes.

15 THE COURT: Juror No. 4, is that your verdict.

16 JUROR NO. 4: Yes.

17 THE COURT: Juror No. 5, is that your verdict.

18 JUROR NO. 5: Yes.

19 THE COURT: Juror No. 6, is that your verdict.

20 JUROR NO. 6: Yes.

21 THE COURT: Juror No. 7, is that your verdict.

22 JUROR NO. 7: Yes.

23 THE COURT: Juror No. 8, is that your verdict.

24 JUROR NO. 8: Yes.

25 THE COURT: Juror No. 9, is that your verdict?

Proceedings

8

1 JUROR NO. 9: Yes.

2 THE COURT: Juror No. 10, is that your verdict?

3 JUROR NO. 10: Yes.

4 THE COURT: Juror No. 11, is that your verdict?

5 JUROR NO. 11: Yes.

6 THE COURT: Juror No. 12, is that your verdict?

7 JUROR NO. 12: Yes.

8 All right. Ladies and gentlemen of the jury, we
9 thank you again for your service. We know that you have
10 attended to this matter diligently and faithfully, and
11 impartially, and have well and truly decided the matters in
12 this case so we do thank you for your service.

13 We're going to excuse you now but I'll let you
14 know that it is my practice to come back and speak briefly
15 to the jury not about anything related to the case but
16 simply about your experience as jurors and to answer any
17 questions that you might have about our process not related
18 to the case at all and thank you again. So, with that, let
19 me excuse you all to retire.

20 (Jury exits courtroom at 11:47 a.m.)

21 THE COURT: Please be seated, everyone.

22 At this point, is there any motion from the
23 Government?

24 MR. HEEREN: No, Your Honor.

25 THE COURT: Okay. So I'm assuming that whatever

Proceedings

9

1 pretrial conditions existed for each of the defendants
2 notwithstanding their convictions those will remain the
3 same; is that correct?

4 MR. HEEREN: Yes, Your Honor.

5 THE COURT: All right. Obviously, if there is any
6 kind of modifications that should made, the parties should
7 talk to each other and make an application.

8 Now, turning to post-trial motions.

9 Mr. Lustberg, I'll start with you. Do you intend
10 to file a motion?

11 MR. LUSTBERG: Yes, Your Honor. I would ask for
12 an extension of time within which to file those motions. I
13 think at least initially, I think that we have ten days or
14 two weeks but I would ask for 30 days.

15 THE COURT: You have 14 days, but obviously, I'll
16 give you as much time as you need. So 30 days seems
17 appropriate to me.

18 MR. LUSTBERG: If I need more time because of
19 other matters, I'll come back to the Court.

20 THE COURT: Absolutely. I think the Government
21 will certainly agree to some reasonable extension under the
22 circumstances and given the complicated set of facts to
23 address.

24 Ms. Wong or Mr. Goldberger?

25 MS. WONG: Yes, we would also ask for 30 days to

Proceedings

10

1 file post-trial motions.

2 THE COURT: Finally, Mr. Tung?

3 MR. TUNG: 30 days.

4 THE COURT: So all of the defendants should file
5 their initial motions: Rule 29, Rule 33, within 30 days and
6 I'm going to look to my law clerk. July 20th would be the
7 filing date. I'll give the Government, obviously, probably
8 double that time given that there are three defendants
9 unless you want less.

10 MR. HEEREN: No, that's fine, your Honor.

11 THE COURT: Okay, that's pretty extensive, so if
12 you can get it done sooner, obviously, you can do so. I'll
13 give the defense at least two weeks for reply, do you
14 anticipate needing more than that?

15 Mr. Lustberg, Ms. Wong or Mr. Tung?

16 MR. LUSTBERG: No, Your Honor.

17 MS. WONG: No, Your Honor.

18 MR. TUNG: No, Your Honor.

19 THE COURT: So we have, I imagine, there might be
20 some adjustments within there once everyone looks at their
21 schedule a little more carefully.

22 So while she's doing that, let me just reiterate
23 what I said to the jury which is it's my practice to thank
24 them personally for their service. And also to answer any
25 questions that they might have or give feedback, quite

Proceedings

11

1 frankly, on how we can do this process, administer this
2 process better.

3 The other thing I will tell them, though, is that
4 they're free to speak to any lawyers who approach them or
5 anyone else they want to, or they're also free not to speak
6 to them because I know oftentimes they get approached,
7 especially in a case like this, by lawyers or by members of
8 the public or the press. So I'll certainly advise them that
9 they're free to do whatever they want to, okay?

10 So I'll be back in a moment, although I guess at
11 this point, there's nothing more I need to address with the
12 parties. So you're free to go unless you want to stay for
13 any reason.

14 COURTROOM DEPUTY: September 18th.

15 THE COURT: Government's response is due on
16 September 18th.

17 COURTROOM DEPUTY: Reply is October 2nd.

18 THE COURT: October 2nd for the reply.

19 MR. HEEREN: Your Honor, I was just going to say,
20 I think you said it, but just to be clear you intend to tell
21 them that they're free to talk or not to talk anyone.

22 THE COURT: Correct. And I'll be candid with you.
23 I do warn them that sometimes talking can lead to some
24 issues and they should be just careful if they decide to
25 talk to people about what they say. But, again, it's

Proceedings

12

1 entirely up to them.

2 Anything else before I leave you all? And, again,
3 urine free to go. All I can say is I know it was a very
4 well-trying case and the jury, obviously, has reached their
5 verdict but I'll hear from you more later about any
6 infirmities you saw in the trial or the sufficiency of the
7 proof or lack thereof, all right.

8 MR. HEEREN: Nothing from the Government, your
9 Honor.

10 MR. LUSTBERG: Nothing from the defense, your
11 Honor.

12 MR. GOLDBERGER: Nothing, your Honor.

13 MR. TUNG: Nothing, your Honor.

14 THE COURT: Thank you all very much.

15 COURTROOM DEPUTY: All rise.

16 (WHEREUPON, this matter was adjourned.)

17

18

* * *

19

20

CERTIFICATE OF REPORTER

21

22 I certify that the foregoing is a correct transcript of the
23 record of proceedings in the above-entitled matter.

24



25

Anthony D. Frisolone, FAPR, RDR, CRR, CRI
Official Court Reporter